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Westmoreland testifies; Time editor warns of libel-suit 'menace'

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The courtroom at the William C. Westmoreland vs. CBS News trial has been packed while the white-haired retired general — the epitome of a no-nonsense military leader — has testified in his \$120 million libel suit in a Manhattan federal court.

In testimony on Thursday and Friday, General Westmoreland attempted to repudiate charges in a 1982 CBS documentary that information on enemy force strength in Vietnam was "suppressed and altered" and that he ordered a ceiling of 300,000 on estimates of enemy forces.

In answer to questions from his attorney, Dan M. Burt, Westmoreland defended the removal of Viet Cong political cadres and self-defense forces from the enemy troop data. He said his decision was not aimed at suppressing information back in Washington, but was designed to get a more realistic picture of the "people we wanted to destroy in a military way." The so-called irregulars were not an offensive force, but basically civilians — women, children, and old men, he said.

The controversy over the self-defense forces came when a draft cable written by Maj. Gen. Joseph A. McChristian, his chief of intelligence until June 1967, showed a dramatic increase in numbers in that category. Westmoreland asked for a briefing on the new figures, and declined to send the cable.

"Such a cable, with its numbers, would be terribly misleading and could be misconstrued by people not familiar with this category," Westmoreland told the jury. But Westmoreland said that he supplied the higher figures to the two superiors he was required to report to, Adm. Ulysses S. Grant, commander in chief of Pacific forces, and Ellsworth Bunker, United States ambassador to South Vietnam.

In the CBS documentary, General McChristian said he had the impression that Westmoreland felt that the release of such figures to Washington would have created a "political bombshell." On the program, Mike Wallace, one of the codefendants in the case, said McChristian was transferred shortly after the report was "suppressed," and that it was at that point that intelligence reports on enemy strength began to be altered.

Outside the courtroom, another battle continues over the question of libel. In a speech at New York University

last week, Henry A. Grunwald, editor in chief of Time Inc., warned that the current "wave of libel actions" have become a serious menace, "to the press and to the country. Time is currently being sued for \$50 million by the former Israeli defense minister, Gen. Ariel Sharon.

Mr. Grunwald says part of the reason for the increase in libel suits is that "the press is taken more seriously and is seen as more powerful than ever before." He spoke of the landmark 1964 New York Times vs. Sullivan case, in which the US Supreme Court held that a public official cannot collect damages for a defamatory falsehood unless he proves it was published with "actual malice" — that is, knowing it was false, or recklessly disregarding the truth.

That decision, which later was widened to include public figures, gave judicial commitment to "uninhibited, robust, and wide open" public debate on a national scale, Grunwald said.

Others would like to see the "actual malice" standard dropped. Bruce E. Fein, an adjunct scholar at the American Enterprise Institute, the Heritage Foundation, and other conservative interest groups — says that the doctrine actually acts as a deterrent to public service, because it encourages "persons to attack the reputation of public officials by the dissemination of falsehoods."

Instead of "probing the internal mind" of journalists to find what their state of mind was while doing a story, ordinary standards of verification and substantiation should be considered, he says. Others charge that this would amount to regulation of news gathering and would be inimical to First Amendment protections.